

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

MICHELLE SWETLAND,

Plaintiff,

v.

PHILLIPS & COHEN AND  
ASSOCIATES, et al.,

Defendants.

CIVIL ACTION NO.: 2:12-CV-02474-GP

**MOTION FOR SUMMARY JUDGMENT**

NOW COMES DEFENDANT Phillips & Cohen and Associates, Ltd., by and through the undersigned counsel, and pursuant to Fed.R.Civ.P. 56, hereby move this Court for an Order granting summary judgment in favor of Defendants. The grounds upon which this Motion is based are as follows:

1. There are no genuine issues of material fact.
2. Defendant's employee manually dialed Plaintiff's phone number on 12 occasions.
3. None of the 12 calls were answered.
4. Plaintiff cannot establish that Defendants called her using any automatic telephone dialing system or an artificial or prerecorded voice, in violation of 47 U.S.C. § 227(b)(1)(A)(iii).
5. Unanswered calls are not an unfair or unconscionable means to collect or attempt to collect a debt under 15 U.S.C. § 1692f.

6. Plaintiff cannot establish that she was subject to any collection efforts by the Defendants.

In support of this Motion, Defendants rely upon their Memorandum of Law and the declaration of Obringer and Defendant's account notes annexed thereto. For all of the reasons set forth in its Memorandum of Law, Defendants respectfully request that judgment be entered in their favor.

Dated: August 8, 2012

Respectfully submitted,

/s/ Aaron R. Easley

Aaron R. Easley, Esq. (73683)

SESSIONS, FISHMAN, NATHAN & ISRAEL, L.L.C.

200 Route 31 North, Suite 203

Flemington, NJ 08822

Telephone No.: (908) 751-5940

Facsimile No.: (908) 751-5944

aeasley@sessions-law.biz

Attorney for Defendant

Philips & Cohen Associates, Ltd.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 8<sup>th</sup> day of August 2012, I caused a true and correct copy of the foregoing Motion for Summary Judgment with supporting Memorandum of Law, declaration, and proposed Order to be filed electronically in the ECF system. Notice of this filing will be sent to the parties of record by operation of the Court's electronic filing system, including plaintiff's counsel as described below.

Vicki Piontek, Esq. (83559)  
951 Allentown Road  
Lansdale, PA 19446  
Tel: (877) 737-8617  
Fax: (866) 408-6735  
Email: [palaw@justice.com](mailto:palaw@justice.com)  
Attorney for Plaintiff  
Michelle Swetland

By: /s/ Aaron R. Easley  
Aaron R. Easley, Esq.  
Attorney for Defendant  
Philips & Cohen Associates, Ltd.